

Amend Section 60063 of the Diesel Fuel Tax Law to correct an erroneous reference and a typographical error. (Technical)

Source: Fuel Taxes Division

Existing Law

Under the existing Diesel Fuel Tax Law, Revenue and Taxation Code Section 60063 references the tax imposed by Sections 60051 and 60052 on a refiner or position holder. These two sections are correctly referenced twice in Section 60063, but, in the third reference to the tax imposed, Sections 7362 or 7363 are referenced instead. However, Sections 7362 and 7363 are sections contained in the Motor Vehicle Fuel Tax Law. The correct reference should be the same as the earlier references to Diesel Fuel Tax Law, Sections 60051 and 60052.

Section 60063 also states that “the board...may relieve the refiner or positionholder from primary liability for payment of tax imposed...and hold another person **primary** liable for the tax” as specified. The second reference to “primary” should read “**primarily**” liable.

This Proposal

This proposal would amend Section 60063 to correctly reference Diesel Fuel Tax Law Sections 60051 and 60052, as appropriate, and to change “primary” to “primarily” liable for the tax.

Section 60063 of the Revenue and Taxation Code is amended to read:

60063. (a) The board may accept from the person who receives diesel fuel removed at a refinery or terminal rack an amount equal to the tax due and required to be paid by the refiner or positionholder upon the removal of the diesel fuel from a refinery or terminal rack, as if the amount were payment of the tax by the refiner or positionholder under Section 60051 or 60052, as the case may be, if the Internal Revenue Service authorizes payment of federal fuel taxes by the receiving party under a two-party exchange agreement or similar arrangement.

(b) The refiner or positionholder shall remain primarily liable for payment of the tax imposed by Section 60051 or 60052 for diesel fuel removed at the refinery or terminal rack, as the case may be, plus any penalty or interest, until the amount is finally paid and credited to the account of the responsible refiner or positionholder; provided, however, that the board, at its discretion, may relieve the refiner or positionholder from primary liability for payment of tax imposed by Section 60051 or 60052 ~~7362 or 7363~~ and hold another person primarily ~~primary~~ liable for the tax if (i) the Internal Revenue Service authorizes payment of fuel taxes by the receiving party under a two-party exchange agreement, and (ii) under the Internal Revenue Service

approach to a two-party exchange agreement, another person is primarily liable for payment of the tax, and (iii) the board elects to follow the Internal Revenue Service approach.

(c) The board may adopt those regulations as it deems appropriate to carry out this section.